

SENATE, No. 2997

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED SEPTEMBER 27, 2018

Sponsored by:

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Establishes “Subcommittee on Affordable Housing Needs” within “Joint Committee on Housing Affordability”; requires subcommittee to make determinations concerning affordable housing needs.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing the “Subcommittee on Affordable Housing
2 Needs” within the “Joint Committee on Housing Affordability,”
3 supplementing Title 52 of the Revised Statutes, and amending
4 various parts of statutory law.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. (New section) a. There is established a Subcommittee on
10 Affordable Housing Needs within the Joint Committee on Housing
11 Affordability to evaluate and determine the present and prospective
12 need for affordable housing at the State and regional levels and to
13 implement the means for fulfilling that need.

14 b. The subcommittee shall consist of five voting members, as
15 follows: the chairman of the joint committee, who shall serve ex
16 officio; two members of the Senate appointed by the chairman of
17 the joint committee, who shall not be of the same political party;
18 and two members of the General Assembly appointed by the
19 chairman of the joint committee, who shall not be of the same
20 political party. The membership shall be balanced to the greatest
21 extent possible among the various housing regions of the State.

22 c. The subcommittee shall consist of the following nonvoting
23 members, appointed by the chairman of the joint committee, as
24 follows:

25 (1) three elected officials representing the interests of local
26 government, including one member who represents a municipality
27 having a population in excess of 40,000 persons and a population
28 density in excess of 3,000 persons per square mile, one member
29 who represents a municipality having a population of 40,000
30 persons or less and a population density of 3,000 persons per square
31 mile or less, and one member who represents the interests of county
32 government;

33 (2) two members representing the interests of households in
34 need of low and moderate housing, including one member who
35 represents the interests of the nonprofit builders of low and
36 moderate income housing and who shall have an expertise in land
37 use practices and housing issues, and one member who represents
38 the interests of persons with disabilities and who shall have an
39 expertise in the construction of accessible housing for persons with
40 disabilities;

41 (3) one member representing the interests of the for-profit
42 builders of market rate homes, who shall have an expertise in land
43 use practices and housing issues;

44 (4) one faculty member of an accredited college or university in
45 the State, who shall have an expertise in urban planning, land use

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 practices, and housing issues; and

2 (5) any other members, as may be deemed appropriate by the
3 chairman, who shall have an expertise in land use practices, housing
4 issues, or any other related field.

5 d. The members of the commission shall serve without
6 compensation, but may be reimbursed for necessary expenses
7 incurred in the performance of their duties to the extent that funds
8 are made available for that purpose.

9
10 2. (New section) a. The subcommittee shall organize as soon
11 as practical after the appointment of its members. The chairman of
12 the joint committee shall serve as the chairperson of the
13 subcommittee. The chairperson of the subcommittee shall select a
14 secretary who need not be a member of the subcommittee.

15 b. The subcommittee shall meet at the call of its chairperson
16 and in the places it may deem appropriate and necessary to fulfill its
17 duties. The subcommittee may conduct public hearings at any place
18 the chairperson of the subcommittee shall designate.

19 c. The subcommittee shall be entitled to call to its assistance
20 and avail itself of the services of the Office of Local Planning
21 Services in the Department of Community Affairs, as it may
22 require.

23 d. The presence of three voting members shall constitute a
24 quorum for the transaction of business. The subcommittee may
25 conduct routine business without a quorum, but may only vote on
26 official matters when a quorum is present.

27
28 3. (New section) The subcommittee shall evaluate and
29 determine the present and prospective need for affordable housing
30 at the State and regional levels and implement the means for
31 fulfilling that need. Specifically, the subcommittee shall:

32 a. identify and evaluate possible methods for determining and
33 adjusting the housing regions of the State in an order such that the
34 municipalities located within each region exhibit significant social,
35 economic, and income similarities;

36 b. identify and evaluate possible methods for determining the
37 present and prospective need for low and moderate income housing
38 at the State and regional levels, for each 10-year period, in a manner
39 that accounts for the following considerations:

40 (1) the population growth within each housing region;

41 (2) the job growth within each housing region;

42 (3) the capacity of the existing infrastructure within each
43 housing region to support additional housing units;

44 (4) the amount of land located within each housing region that is
45 preserved as open space, used for agricultural purposes, and located
46 in environmentally sensitive areas; and

47 (5) the impact of the construction of additional housing units on
48 the natural environment of each housing region;

1 c. determine and adjust, as necessary, the following:

2 (1) the housing regions of the State; and

3 (2) the present and prospective need for low and moderate
4 income housing at the State and regional level, for each 10-year
5 period, provided that the method used to calculate these needs shall
6 account for the additional considerations set forth in subsection b.
7 of this section; and

8 d. determine and implement the means for fulfilling the present
9 and prospective need for low and moderate income housing at the
10 State and regional level, including but not limited to, encouraging
11 the rehabilitation of the existing housing units located within each
12 housing region.

13

14 4. (New section) The subcommittee shall prepare and submit a
15 report of its findings and determinations to the joint committee,
16 Governor, and Legislature, pursuant to section 2 of P.L.1991, c.164
17 (C.52:14-19.1), not later than six months after the organization of
18 the subcommittee and every 10 years thereafter.

19

20 5. Section 4 of P.L.2007, c.55 (C.52:9RR-4) is amended to read
21 as follows:

22 4. a. The committee is authorized, empowered, and directed to
23 conduct a continuing study of the availability and provision of
24 housing affordable to all New Jersey households, the financing and
25 administration of programs providing affordable housing, the rules,
26 regulations or actions promulgated or enforced by various State
27 government entities, including but not limited to, departments,
28 boards, bureaus, commissions, or agencies, that may negatively
29 impact the affordability of housing, and land use policies and other
30 issues related to making housing affordable, for the purpose of
31 making recommendations for legislative action, including
32 amendments to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
33 301 et al.) or to the "State Planning Act," P.L.1985, c.398
34 (C.52:18A-196 et al.), or to any other statute as it deems practicable
35 and desirable for the provision of opportunities for the affordability
36 and availability of housing for all residents throughout the State.

37 b. The Subcommittee on Affordable Housing Needs established
38 pursuant to section 1 of P.L. , c. (C.) (pending before the
39 Legislature as this bill) is authorized, empowered, and directed to
40 perform the duties set forth in section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill).

42 (cf: P.L.2007, c.55, s.4)

43

44 6. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to
45 read as follows:

46 7. It shall be the duty of the council, seven months after the
47 confirmation of the last member initially appointed to the council,
48 or January 1, 1986, whichever is earlier, and [from time to time

1 thereafter] until the effective date of P.L. , c. (C.) (pending
2 before the Legislature as this bill), to:

3 a. Determine housing regions of the State;

4 b. Estimate the present and prospective need for low and
5 moderate income housing at the State and regional levels;

6 c. Adopt criteria and guidelines for:

7 (1) Municipal determination of its present and prospective fair
8 share of the housing need in a given region which shall be
9 computed for a 10-year period.

10 Municipal fair share shall be determined after crediting on a one-
11 to-one basis each current unit of low and moderate income housing
12 of adequate standard, including any such housing constructed or
13 acquired as part of a housing program specifically intended to
14 provide housing for low and moderate income households.
15 Notwithstanding any other law to the contrary, a municipality shall
16 be entitled to a credit for a unit if it demonstrates that (a) the
17 municipality issued a certificate of occupancy for the unit, which
18 was either newly constructed or rehabilitated between April 1, 1980
19 and December 15, 1986; (b) a construction code official certifies,
20 based upon a visual exterior survey, that the unit is in compliance
21 with pertinent construction code standards with respect to structural
22 elements, roofing, siding, doors and windows; (c) the household
23 occupying the unit certifies in writing, under penalty of perjury, that
24 it receives no greater income than that established pursuant to
25 section 4 of P.L.1985, c.222 (C.52:27D-304) to qualify for
26 moderate income housing; and (d) the unit for which credit is
27 sought is affordable to low and moderate income households under
28 the standards established by the council at the time of filing of the
29 petition for substantive certification. It shall be sufficient if the
30 certification required in subparagraph (c) is signed by one member
31 of the household. A certification submitted pursuant to this
32 paragraph shall be reviewable only by the council or its staff and
33 shall not be a public record;

34 Nothing in P.L.1995, c.81 shall affect the validity of substantive
35 certification granted by the council prior to November 21, 1994, or
36 of a judgment of compliance entered by any court of competent
37 jurisdiction prior to that date. Additionally, any municipality that
38 received substantive certification or a judgment of compliance prior
39 to November 21, 1994 and filed a motion prior to November 21,
40 1994 to amend substantive certification or a judgment of
41 compliance for the purpose of obtaining credits, shall be entitled to
42 a determination of its right to credits pursuant to the standards
43 established by the Legislature prior to P.L.1995, c.81. Any
44 municipality that filed a motion prior to November 21, 1994 for the
45 purpose of obtaining credits, which motion was supported by the
46 results of a completed survey performed pursuant to council rules,
47 shall be entitled to a determination of its right to credits pursuant to
48 the standards established by the Legislature prior to P.L.1995, c.81;

1 (2) Municipal adjustment of the present and prospective fair
2 share based upon available vacant and developable land,
3 infrastructure considerations or environmental or historic
4 preservation factors and adjustments shall be made whenever:

5 (a) The preservation of historically or important architecture and
6 sites and their environs or environmentally sensitive lands may be
7 jeopardized,

8 (b) The established pattern of development in the community
9 would be drastically altered,

10 (c) Adequate land for recreational, conservation or agricultural
11 and farmland preservation purposes would not be provided,

12 (d) Adequate open space would not be provided,

13 (e) The pattern of development is contrary to the planning
14 designations in the State Development and Redevelopment Plan
15 prepared pursuant to sections 1 through 12 of P.L.1985, c.398
16 (C.52:18A-196 et seq.),

17 (f) Vacant and developable land is not available in the
18 municipality, and

19 (g) Adequate public facilities and infrastructure capacities are
20 not available, or would result in costs prohibitive to the public if
21 provided.

22 (3) (Deleted by amendment, P.L.1993, c.31).

23 d. Provide population and household projections for the State
24 and housing regions;

25 e. In its discretion, place a limit, based on a percentage of
26 existing housing stock in a municipality and any other criteria
27 including employment opportunities which the council deems
28 appropriate, upon the aggregate number of units which may be
29 allocated to a municipality as its fair share of the region's present
30 and prospective need for low and moderate income housing. No
31 municipality shall be required to address a fair share of housing
32 units affordable to households with a gross household income of
33 less than 80% of the median gross household income beyond 1,000
34 units within ten years from the grant of substantive certification,
35 unless it is demonstrated, following objection by an interested party
36 and an evidentiary hearing, based upon the facts and circumstances
37 of the affected municipality that it is likely that the municipality
38 through its zoning powers could create a realistic opportunity for
39 more than 1,000 low and moderate income units within that ten-
40 year period. For the purposes of this section, the facts and
41 circumstances which shall determine whether a municipality's fair
42 share shall exceed 1,000 units, as provided above, shall be a finding
43 that the municipality has issued more than 5,000 certificates of
44 occupancy for residential units in the ten-year period preceding the
45 petition for substantive certification in connection with which the
46 objection was filed.

47 For the purpose of crediting low and moderate income housing
48 units in order to arrive at a determination of present and prospective

1 fair share, as set forth in paragraph (1) of subsection c. of this
2 section, housing units comprised in a community residence for the
3 developmentally disabled, as defined in section 2 of P.L.1977,
4 c.448 (C.30:11B-2), shall be fully credited pursuant to rules
5 promulgated or to be promulgated by the council, to the extent that
6 the units are affordable to persons of low and moderate income and
7 are available to the general public.

8 The council, with respect to any municipality seeking substantive
9 certification, shall require that a minimum percentage of housing
10 units in any residential development resulting from a zoning change
11 made to a previously non-residentially-zoned property, where the
12 change in zoning precedes or follows the application for residential
13 development by no more than 24 months, be reserved for occupancy
14 by low or moderate income households, which percentage shall be
15 determined by the council based on economic feasibility with
16 consideration for the proposed density of development.

17 In carrying out the above duties, including, but not limited to,
18 present and prospective need estimations the council shall give
19 appropriate weight to pertinent research studies, government
20 reports, decisions of other branches of government, implementation
21 of the State Development and Redevelopment Plan prepared
22 pursuant to sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196
23 et seq.) and public comment. To assist the council, the State
24 Planning Commission established under that act shall provide the
25 council annually with economic growth, development and decline
26 projections for each housing region for the next ten years. The
27 council shall develop procedures for periodically adjusting regional
28 need based upon the low and moderate income housing that is
29 provided in the region through any federal, State, municipal or
30 private housing program.

31 No housing unit subject to the provisions of section 5 of
32 P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the
33 barrier free subcode adopted by the Commissioner of Community
34 Affairs pursuant to the "State Uniform Construction Code Act,"
35 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for
36 inclusion in the municipal fair share plan certified by the council
37 unless the unit complies with the requirements set forth thereunder.
38 (cf: P.L.2008, c.46, s.6)

39
40 7. This act shall take effect immediately.
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43 STATEMENT

44

45 This bill establishes a "Subcommittee on Affordable Housing
46 Needs" within the "Joint Committee on Housing Affordability" to
47 evaluate and determine the need for affordable housing at the State

1 and regional levels. The subcommittee would also determine and
2 implement the means for fulfilling this need.

3 The subcommittee is to consist of five voting members, as
4 follows: the chairman of the joint committee; two members of the
5 Senate appointed by the chairman of the joint committee, who shall
6 not be of the same political party; and two members of the General
7 Assembly appointed by the chairman of the joint committee, who
8 shall not be of the same political party. The subcommittee also is to
9 consist of the following nonvoting members, appointed by the
10 chairman of the Joint Committee, as follows:

11 (1) three elected officials representing the interests of local
12 government, including representatives of one urban municipality,
13 one rural municipality, and one county;

14 (2) two members representing the interests of households in
15 need of low and moderate housing, including one representative of
16 the nonprofit builders of low and moderate income housing and one
17 representative of the interests of persons with disabilities;

18 (3) one member representing the interests of the for-profit
19 builders of market rate homes;

20 (4) one faculty member of a university in the State, who
21 specializes in urban planning, land use practices, and housing
22 issues; and

23 (5) any other members, as may be deemed appropriate by the
24 chairman.

25 The subcommittee is to be responsible for evaluating and
26 determining the present and prospective need for affordable housing
27 at the State and regional levels. Specifically, the subcommittee
28 would:

29 (1) identify and evaluate possible methods for determining the
30 housing regions of the State;

31 (2) evaluate and estimate the present and prospective need for
32 low and moderate income housing at the State and regional levels;

33 (3) determine and adjust, as necessary, the housing regions of
34 the State and the present and prospective need for low and moderate
35 income housing for each 10-year period based on population
36 growth; job growth; the capacity of existing infrastructure to
37 support additional housing units; the amount of land that is
38 preserved for open space land, used for agricultural purposes, and
39 located in environmentally sensitive areas; and the environmental
40 impact of constructing additional housing units; and

41 (4) determine and implement the means for fulfilling the State
42 and regional need for affordable housing, including but not limited
43 to, encouraging the rehabilitation of existing housing units.

44 Under current law, the Council on Affordable Housing (COAH)
45 is deemed responsible for establishing the housing regions of the
46 State, determining the needs for affordable housing throughout the
47 State, and issuing guidance concerning municipal compliance with
48 the need for affordable housing. Reflecting the transfer of

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- 1 responsibilities from COAH to the subcommittee, the bill also
- 2 dissolves the responsibility of COAH to provide these functions
- 3 upon the effective date of the bill.